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Program J/2a

CABBAGE DIVERSION PROGRAM (Fiscal Year 1943)

OFFER OF THE SECRETARY OF AGRICULTURE, as Amended

The Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary"), pursuant to Section 32, Public Law No. 320, 74th Congress, as amended, will make payments to packers who have sauerkraut packing plants located in areas designated by the Secretary or his authorized representative, and who divert cabbage from the normal channels of trade and commerce by processing such cabbage into sauerkraut in said plants and selling such sauerkraut in fresh form. Such payments will be made upon the following terms and conditions:

(1) Payments to packers will be at the rate of \$1.00 per 45 gallons for sauerkraut sold in accordance herewith.

(2) The packer must have purchased from growers at rates not less than \$7.50 per ton, a quantity of Domestic type cabbage equal to one-third ton of cabbage for each 45 gallons of sauerkraut sold pursuant to the terms hereof and must have processed such cabbage into sauerkraut on or before January 31, 1943, in the packer's plant, named in the applicable applications. Sauerkraut manufactured from such Domestic type cabbage may be commingled with other sauerkraut manufactured by the packer.

(2a) The packer, in lieu of himself purchasing cabbage and processing same into sauerkraut, may purchase sauerkraut manufactured by another packer, who, except for such sale, would have been eligible for payment in connection with such sauerkraut so sold. The packer purchasing such kraut shall be required to furnish to the Secretary, or his authorized representative, among other things, proof to the effect that had such sauerkraut been sold by the packer manufacturing same to eligible purchasers such kraut could have been the proper subject matter of payments hereunder.

(2b) The packer, in lieu of himself selling the sauerkraut processed in his plants to eligible purchasers, may sell such sauerkraut to a second packer, or canner, for resale to eligible purchasers. Diversion payments will then be made to the packer selling such sauerkraut to the second packer upon presentation, among other things, to the Secretary, or his authorized representative, of proof that such sauerkraut has been sold to eligible purchasers by the second packer.

(3) Sauerkraut must be sold or contracted for sale in fresh form to eligible purchasers not later than May 1, 1943, and delivered to such purchasers, or to a carrier for shipment to such purchasers, not later than June 30, 1943. "Eligible purchasers," as used herein means any person or firm approved by the Secretary or his authorized representative or agent, or any bonafide jobber, distributor, wholesaler, or retailer. Eligible purchaser does not include any packer or canner. "Fresh form," as used herein, means uncooked, and not packed in hermetically sealed containers sterilized by heat.

(4) No packer shall be entitled to payment unless he has submitted an Application in approved form and the Secretary or his authorized representative has, pursuant to the terms and conditions set forth in such form and in this

offer, issued a Diversion Authorization. Such Diversion Authorization may be issued for the maximum quantity of sauerkraut requested in the Application, or for any part thereof. No payment will be made on any quantity of sauerkraut in excess of that for which a Diversion Authorization has been issued. More than one Diversion Authorization may be issued for the same plant. The right is reserved to reject any or all applications.

(5) Any part or parts of the quantity of sauerkraut covered by an approved Application may be delivered separately and the Secretary will make payment in connection with such quantities in the same manner as if the total quantity of sauerkraut covered by such Application had been delivered.

(6) No packer shall be entitled to such payments unless he shall submit on or before September 1, 1943, or during any extensions of such time as may be made by the Secretary or his authorized representative, a claim in voucher form and shall furnish to the Secretary or his authorized representative or agent, such information as may be requested for the purpose of enabling him to determine the proper payment to be made and the extent to which there has been compliance with the conditions of this offer and the appropriate Diversion Authorization. The packer shall make available to the Secretary or his authorized representative or agent, for the purposes of verifying such information, any pertinent books, records, memoranda, documents, papers and correspondence of the packer, or of the packer's agents or representatives which the Secretary or his authorized representative or agent may request. The determination of the Secretary as to pertinency shall be final.

(6a) Payments in connection with any sauerkraut shall be made only to one packer. If the packer making claim for payment pursuant hereto is not the packer who has made the sale to eligible purchasers, then such packer claiming such payment shall in submitting claims for securing diversion payments, present a waiver in form approved by the Secretary of Agriculture, or his authorized representative, of any claim for diversion payments by the packer who did make such sales to eligible purchasers.

(7) The Secretary or his authorized representative or agent may, upon notice to the packer, reduce the maximum quantity of sauerkraut prescribed in any Diversion Authorization or Authorizations, or cancel any Diversion Authorization or Authorizations, provided, however, that such reduction or cancellation shall not affect such quantity of sauerkraut as is equal to that quantity of cabbage purchased pursuant to this offer prior to the effective date of such reduction or cancellation, plus such additional quantity of sauerkraut as may be required to fulfill sales or contracts of sales made prior to the effective date of such reduction or cancellation. For the purposes hereof, 45 gallons of sauerkraut shall be considered equal to one-third ton of cabbage.

(8) The Secretary reserves the right to terminate this offer at any time by giving public notice thereof. Such termination shall not affect payments to be made pursuant to any Diversion Authorization theretofore issued by the Secretary or his authorized representative or agent.

(9) This offer by the Secretary of Agriculture as Amended supersedes the Offer of the Secretary of Agriculture issued September 19, 1942 and the Offer of the Secretary of Agriculture as Amended issued December 31, 1942.

Date: January 25, 1943

Paul H. Clegg
Under Secretary of Agriculture